

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Commonwealth Edison Company)	
)	00-0259
Petition for Expedited Approval of)	
Implementation of a Market-Based)	
Alternative Tariff, to become effective)	
on or before May, 2000, pursuant to Article)	
IX and Section 16-112 of the Public)	(Cons.)
Utilities Act.)	
)	
Central Illinois Public Service Company))	
Union Electric Company)	00-0395
)	
Petition for Approval of Revisions to)	
Market Value Tariff, Rider MV)	
)	
Illinois Power Company)	
)	
Proposed New Rider MVI and Revisions)	00-0461
Revisions to Rider TC)	

NOTICE OF FILING

PLEASE TAKE NOTICE that on this date, March 6, 2001, we have filed with the Chief Clerk of the Illinois Commerce Commission the enclosed Initial Brief Of The People Of The State Of Illinois On Reopening via e-docket to the Chief Clerk of the Illinois Commission at 527 East Capitol Avenue, Springfield, Illinois 62794-9280.

Mark G. Kaminski
Assistant Attorney General

CERTIFICATE OF SERVICE

I, Mark G. Kaminski, Assistant Attorney General, hereby certify that I served the above identified documents upon all active parties of record on the attached service list by United States Mail, first class postage prepaid on March 6, 2001, and by electronic mail to all active parties.

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**INITIAL BRIEF OF THE PEOPLE OF THE
STATE OF ILLINOIS ON REOPENING**

Comes now the People of the State of Illinois, by James E. Ryan, Attorney General of Illinois (hereinafter “People” or “AG”), and, for their Initial Brief on Reopening in the above captioned cause, file the following.

INTRODUCTION

Commonwealth Edison Company (hereafter “ComEd”), Central Illinois Public Service Company/Union Electric Company (hereafter “Ameren”) and Illinois Power Company (hereafter “IP”), each, in accordance with Section 16-112 of the Public Utilities Act, 220 ILCS 5/16-112, petitioned the Commission for a market index methodology alternative to the Neutral Fact-Finder

(hereafter “NFF”) process for determining the market value of electric power and energy. The market value of electric power and energy is used to calculate the Power Purchase Option (hereafter “PPO”) price and Customer Transition Charge (hereafter “CTC”) fee.

On July 6, 2000, the Commission, on its on motion, consolidated the three dockets. On October 2, 2000, a hearing commenced. On October 13, 2000, the record was marked Heard and Taken. On January 23, 2001, the Commission granted Motions for Rehearing filed by Illinois Industrial Energy Consumers (hereafter “IIEC”) and AES NewEnergy, Inc. (hereafter “NewEnergy”). On February 27, 2001, a hearing on reopening was held addressing three issues:

1. Whether or not the use of historical day-ahead off-peak prices to determine future day-ahead off-peak prices is proper.
2. Whether or not the utilities use an optionality adder, and, if so, what it is.
3. Whether or not Bloomberg, and electronic exchanges in general, continue to be an appropriate source for electric power and energy market data.

With the exception of a ruling on a pending evidentiary motion by IIEC, the record was again marked Heard and Taken.

ARGUMENT

1. Insufficient data was produced to determine whether or not forward looking transactions could be used to more accurately calculate off-peak market values.

NewEnergy raised the possibility that the use of forward transactions to calculate off-peak market values (similar to the methodology used to calculate on-peak market values) might yield a more accurate price than using historic day ahead prices attained from *Power Markets Week*. Since the only possible way to make that determination was to look at actual off-peak transactions, the parties agreed that only Staff and the AG would be privy to such proprietary

data. The data produced by the utilities was reviewed by the AG and Staff experts. The AG deems the results inconclusive. While the data reviewed indicated that using forward looking transactions **might** result in an increase in off-peak market values, the data was insufficient to quantify that increase. The People suggest that the Commission continue to look at this issue during the Hearing Examiner's proposed two year sunset period. During the sunset period, sufficient data may be available to produce substantive evidence which may lead to conclusive results on this issue. The People urge the Commission to continue monitoring this information. The AG will to continue working with Staff, as needed, to evaluate this evidence.

2. ComEd's 8760 hour methodology is a reasonable approximation for the cost of serving uncertain load.

ComEd offered its 8760 hour methodology¹ as a further improvement to the Zuraski Adjustment. ComEd had originally proposed applying customer class load shapes to the Zuraski Adjustment, which ComEd witness Nichols referred to as his "enhanced" Zuraski Adjustment. Tr. at 223, line 8. He explained that his enhancement used customer class load shapes with a weekday, weekend and peak shape for each month. *Id.* This gave the original Zuraski Adjustment more weighted load variability than "...just having an average over the entire summer...."*Id.*

In response to party's concerns regarding the cost to serve uncertain load, ComEd proposed its 8760 hour methodology. ComEd witness Nichols stated:

Using PJM hourly price data, hourly price fluctuations and uncertainty is captured and then weighted by each customer class' corresponding usage which reflects the uncertainty of loads.

¹ See, Nichols Surrebuttal at 5, line 6.

Weighting the prices by these loads does give a greater weight to higher prices occurring at times of higher loads. This calculation, in effect, results in a ratio factor that is multiplied by the before mentioned market values, and additionally adjusted for losses, sales, marketing and uncollectable costs to reach an equivalent customer cost. Using the 8760 hour methodology has increased the final equivalent customer cost by more than 3% compared to even the enhanced “Zuraski adjustment” that was originally proposed by ComEd using customer class load profiles. An important aspect of the methodology is that the calculated ratio factor is multiplied by the forward prices which itself has to reflect price uncertainty.

...

In the end there are only four basic prices calculated with the MVI methodology, summer peak and off-peak; and non-summer peak and off-peak. But included in each price are the possibilities for varying hourly loads and varying hourly prices.

Nichols Surrebuttal at 5, line 6. Nichols agreed that the “essence” of ComEd’s methodology is that it includes a range of possibilities for both load and price.² Tr. at 209, line 9.

ComEd’s proposed 8760 hour methodology appears to adequately account for load uncertainty. The People believe that the cost associated with load uncertainty can reasonably be approximated by ComEd’s proposed 8760 hour methodology.³ While it is certainly true that the usage demanded in the summer of 2001 will not necessarily reflect the usage demanded in the

² Staff witness Zuraski testified, “...whereas the Zuraski method tended to look at an expected price for an hour times an expected quantity for an hour, the ComEd proposed modification moves closer towards looking at the expected price times quantity for an hour.” Tr. at 275, line 10.

³ It seems clear that the actual cost to account for load uncertainty can only be known by an “after the fact” type of analysis. It does not appear that this “backward looking” analysis can be completely captured by any “forward looking” pricing mechanism. (ComEd witness Leonard testified that “...we probably never know[]” if we are paying too much or too little to cover energy price risk. Tr. at 90, line 9). The 8760 hour method seems to approximate the sought after cost as closely as any currently recognized methodology.

summer of 2002, a prediction based on actual hourly prices weighted by actual hourly loads is a reasonable approximation. This is especially true considering the paucity of alternatives. That is one reason why the People support the Hearing Examiner's two year sunset proposal. Under such a plan, the Commission, and any interested party, has sufficient time to create and/or explore other options, without fostering a commercially unreasonable burden on any party. The People believe that costs of doing business should be allocated as fairly as possible so as not to give any party a competitive advantage or disadvantage. Therefore, ComEd's proposed 8760 hour methodology appears, at this point, to strike an appropriate competitive balance.⁴

3. Bloomberg's decision to discontinue reporting trades for the Into ComEd hub evidences the need for alternative data sources.

The history of the market value index dockets demonstrates the dynamic nature of market data sources. ComEd championed NYMEX's Cinergy futures market in its 1999 MVI case (ICC Doc. No. 99-0171), only to see that market fade away. Similarly, Bloomberg recently stopped reporting Into ComEd trades. *See*, IIEC Motion for Additional hearings, Ex. A. This history of data source decline makes relying on a small static pool of data sources problematic. No one data source is guaranteed to retain enough liquidity to be the best, or even an adequate, indicator of market value.

⁴ Although Ameren has been less than forthcoming in this reopened proceeding, the testimony of its witness, taken at face value, supports the People's reasoning regarding the use of the 8760 hour methodology to capture the cost of serving uncertain load. Ameren witness Eacret testified that "...we think that the [8760 method] that we're using captures some of the market value of serving that top portion of the load, so we're talking about an increment..." of load uncertainty cost that is not captured. Tr. at 156, line 17. Eacret testified that failing to capture this incremental cost of serving uncertain load would have no impact on competition in Illinois. Tr. at 158, line 11.

However, a methodology employing a dynamic pool of data sources would be able to add and remove sources according to their liquidity and other characteristics. As stated by Ameren witness Eacret, "...I would think we would want to build enough flexibility into whatever process we create here so that through some mutually agreeable way we could look at these other data resources as they become available and benefit from them." Tr. at 159, line 9.

IP and ComEd agree that their methodologies should remain open to new data sources. ComEd witness Nichols offered on direct testimony "[t]he viability and appropriateness of sources of market information utilized under ComEd's MVI methodology will be reviewed periodically and changes will be proposed to the ICC Staff." Nichols Direct on Reopening, p. 2. While Nichols thought that it was "somewhat premature" to agree to a set of standardized procedures for the evaluation and selection of new data sources, he did suggest that uniform standards should include "...covering the market we want to cover, that we can gather the data." Tr. at 221, line 5. IP witness Breezeel agreed that "...[IP] would certainly be willing to discuss..." (Tr at 53, line 14) standardized procedures in evaluation and selection of new data sources, such as minimum volumes or transparency.⁵

Therefore, the People urge the Commission to require each of the petitioners to employ, to the extent possible, a uniform, standardized set of criteria for evaluating and implementing new data sources. To that end, the People believe that the Commission, utilities and intervenors should work together to develop, to the extent possible, a set of standardized criteria for judging potential new data sources. These criteria should be developed in the workshops contemplated by

⁵Breezeel testified that "[a]s long as we are sure that the commodity is the same as we're measuring on ICE and Bloomberg, Altrade and Power Markets Week, then we would certainly consider adding that as an additional source." Tr. at 52, line 20.

the Hearing Examiner's Proposed Order.

4. Petitioners should add ICE as a data source to their MVI tariffs.

IP has gone further than discuss new data sources. IP has already proposed adding ICE to its MVI tariff data sources. Tr. at 55, line 2. The people believe that ICE is a good example of a data source that should be added to all utility MVI tariffs. ICE appears to be a more robust exchange than either Altrade or Bloomberg. Tr. at 62, line 16. Between January 24, 2001 and February 7, 2001, IP observed 288 separate trades on ICE, representing 5,934,400 megawatts of contracts for a hypothetical March 1 effective date. Tr. at 63, line 19. During that same period, Altrade and Bloomberg together reported only one trade. Tr. at 64, line 8. In addition, Breezeel testified that IP did not subscribe to ICE, or pay any fee, for access to the data he reported. Tr. at 50, line 17. Rather, IP received guest access simply by "contact[ing] the ICE." Tr. at 51, line 1.

Both, ComEd and Ameren have indicated that they are willing to incorporate new data sources. ICE has been shown to not only be equal to those data sources already approved in the Hearing Examiners Proposed Order, but also superior in volume of trades reported. IP witness Breezeel testified: "...to the extent ICE activity represents new or additional trading activity, our on-peak data will become even more robust." IP Ex. 1.7,p. 4, line73. The People agree.

Therefore, the People believe the Commission should require all utilities to add ICE to their MVI tariff data sources.

WHEREFORE, the People of the State of Illinois, respectfully request the Commission enter a final order consistent with the above arguments.

Respectfully submitted,
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